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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/785,490	02/24/2004	Bruno Marchevsky	57689.010050	9881

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EXAMINER	
GELIN, JEAN ALLAND	

ART UNIT	PAPER NUMBER
2681	

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DATE MAILED: 06/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/785,490	MARCHEVSKY, BRUNO	
	Examiner	Art Unit	
	Jean A. Gelin	2681	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 February 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2 and 6-12* is/are rejected.

7)☒ Claim(s) *3-5* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *24 February 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1 and 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Raith (US 6,493,550).

Regarding claim 1, Raith teaches in apparatus for detecting the presence of a wireless LAN (detecting the presence of a private network, which is connected to LAN, col. 3, lines 1-3, col. 5, lines 14-24) comprising: a radio frequency receiver for receiving radio frequency signals (col. 5, lines 31-36); and a controller having associated programming for controlling the receiver and measuring and analyzing the energy of the received radio frequency signals for the purpose of determining if the radio frequency signals indicate the presence of a wireless LAN (i.e., the mobile makes signal strength measurements, col. 5, lines 14-49).

Regarding claim 8, Raith teaches wherein the radio frequency receiver and the controller are contained within a handheld unit (i.e., mobile station 350).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Raith (US 6,493,550) in view of Kim (US 6,275,526).

Regarding claim 2, Raith teaches all the limitation above except wherein the programming determines if the received radio frequency signals includes pulses having a duration within an established minimum and maximum.

However, the preceding limitation is known in the art of communications. Kim teaches the programming a clock to determine the pulse duration of a received signal (col. 5, lines 24-42). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to implement the technique of Kim within the system of Raith in order that the controller programs the pulse duration at the encoder based on the data value, and restores the data value at the decoder based on the first pulse duration (col. 1, lines 62-67). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to implement the technique of Kim within the system of Raith in order that erroneous transmission of data resulting from outside noise can be avoided during serial communication.

5. Claims 6-7 and 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Raith (US 6,493,550) in view of Elliott et al. (US 2003/0096629).

Regarding claim 6, Raith teaches all limitation except a display associated with the controller for displaying an indication of the presence of a beacon issuing from a wireless LAN access point.

However, the preceding limitation is known in the art of communications. Elliott teaches a monitoring device 10 which includes a RF intensity display for displaying the estimated RF power levels of received RF signals (section 25). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to implement the technique of Elliott within the system of Raith in order to enable individuals to assure the safety of specific areas from excessive RF power levels by displaying the quality of RF power received.

Regarding claim 7, Raith in view of Elliott teaches all the limitations above. Elliott further teches wherein the display comprises a plurality of LEDs (section 25-26).

Regarding claims 9, 11, Raith teaches a method for detecting the presence of a wireless LAN (detecting the presence of a private network, which is connected to LAN, col. 3, lines 1-3, col. 5, lines 14-24) comprising: receiving radio frequency signals (col. 5, lines 31-36); determining if the radio frequency signals indicate the presence of a wireless LAN (i.e., the mobile makes signal strength measurements, col. 5, lines 14-49).

Raith does not teach determining if the received radio frequency signals includes pulse having a duration and periodicity appropriate for beacon.

However, the preceding limitation is known in the art of communications. Elliott teaches a monitoring device 10 which includes a RF intensity display for displaying the estimated RF power levels of received RF signals (section 25). Therefore, it would have

been obvious to one of ordinary skill in the art, at the time of the invention, to implement the technique of Elliott within the system of Raith in order to enable individuals to assure the safety of specific areas from excessive RF power levels by displaying the quality of RF power received.

Regarding claims 10, 12, Raith in view of Elliott teaches all the limitations above. Elliott further teches wherein the display comprises a plurality of LEDs (section 25-26).

Allowable Subject Matter

6. Claims 3-5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims if overcome the Double Patenting rejection..

Double Patenting

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

8. Claim 1, 7, 8, 10, 12 are provisionally rejected under the judicially created doctrine of double patenting over claims 1, 6, 7, 10, 23, and 40 of copending Application

No. 10/443,639. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: in apparatus for detecting the presence of a wireless LAN comprising: a radio frequency receiver for receiving radio frequency signals; and a controller having associated programming for controlling the receiver and measuring and analyzing the energy of the received radio frequency signals for the purpose of determining if the radio frequency signals indicate the presence of a wireless LAN. These limitations are recited in claim 1 of the current application, and in claims 1, 23, and 40 of the application (10/443,639).

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Sundar et al.	US 2003/0134650	07/17/2003
Alanara et al.	US 2003/0119494	06/26/2003
Saito	US 2003/0169716	09-2003
Fukuda	US 2003/0021254	01-2003
Serceki	US 2004/0102192	05-2004

Carlson	US 6,804,496	10-2004
West	US 5,574,979	11-1996
Shuholm	US 6,573,759	06-2003

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean A. Gelin whose telephone number is (571) 272-7842. The examiner can normally be reached on 9:30 AM to 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on (571) 272-4090. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JGelin
June 27, 2005